

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures--Hearings

Article 3. Administrative Hearing Procedures for Petitions for Review of Complaints

Subarticle 5. Prehearing Procedures

§ 60065.21. Scheduling of Hearings.

(a) Upon issuance of a complaint, the state board shall refer the matter to the administrative hearing office of the state board for assignment of a hearing officer. The hearing office shall assign an administrative law judge from the hearing office to hear the matter, unless staffing and other resources of the hearing office would prevent timely consideration of the matter. If the resources of the administrative hearing office prevent assignment, the administrative hearing office shall refer the matter to the State Office of Administrative Hearings for assignment.

(b) The hearing office shall as expeditiously as possible, but no later than 30 days after issuance of the complaint, assign the matter to a hearing officer and schedule the hearing on the merits of the complaint. Except as provided in paragraph (f), below, a hearing on the merits of a complaint, in general, be scheduled to be heard no later than 180 days from the date of issuance of the complaint or from receipt of the petition for review, unless the hearing officer determines, for good cause, that a later hearing date is necessary and in the interest of justice.

(c) The hearing office shall deliver or mail a notice of hearing to all parties at least 30 days prior to the hearing. The notice shall be in the form specified in section 11509 of the Government Code, and shall also provide notice of the availability of interpreters pursuant to section 60065.10 of these rules.

(d) The hearing officer shall grant such delays or continuances as may be necessary or desirable in the interest of fairly resolving the case.

(1) The hearing officer may, on his or her own motion or upon request of any party accompanied by a showing of good cause, continue a hearing to another time or place.

(2) A party shall apply to the hearing officer for a continuance not less than five days prior to the scheduled hearing.

(3) When a continuance is ordered during a hearing, the hearing officer shall give written notice of the time and place of the continued hearing.

(e) The hearing office shall set the place of hearing at a location as near as practicable to the place where the respondent resides or maintains a place of business in California. If the respondent does not reside or maintain a place of business in California, the hearing shall be in Sacramento. The hearing office may establish hearing locations anywhere in the state; at a minimum one hearing location shall be established in Sacramento and one in the Los Angeles area.

(f) Upon the motion of any party and a showing of good cause, or upon the motion of the hearing officer, and in the absence of an objection from any party, the hearing officer may exercise discretion to conduct all or part of a hearing by telephone.

(1) In granting such a motion, the hearing officer must be assured that each participant in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe all exhibits fully.

(2) The hearing officer may direct the party who has requested the alternative method to make the necessary arrangements and be responsible for any associated costs.

NOTE: Authority cited: Sections 39600, 39601, 43028 and 43031(a), Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); Sections 43028 and 43031(a), Health and Safety Code; and Sections 11509 and 11440.30, Government Code.

REFERENCE